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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/771,595	01/30/2001	Peter Hossel	51186	8957
26474	7590	01/13/2004		
KEIL & WEINKAUF 1350 CONNECTICUT AVENUE, N.W. WASHINGTON, DC 20036			EXAMINER LAMM, MARINA	
			ART UNIT 1616	PAPER NUMBER

DATE MAILED: 01/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/771,595

Applicant(s)

HOSSEL ET AL.

Examiner

Marina Lamm

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 9-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 9-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 110703.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/7/03 has been entered.
2. Claims pending are 1-4 and 9-19. Claims 5-8 have been cancelled. Claims 1 and 16 have been amended. Claims 18 and 19 are new.

### ***Information Disclosure Statement***

3. The US Applications cited in the IDS filed 11/7/03 have been reviewed but will not be cited because they are not prior art.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 1-4 and 9-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dieing et al. (EP 0 893 117) in view of Tanner et al. (US 5,827,508) and George et al. (US 6,165,449).

Dieing et al. teach cationic crosslinked polymers for use in cosmetic compositions, in particular in hair care compositions such as hair lotions, rinses, emulsions, sprays and shampoos, said polymers comprising 1-99.99% of a cationic or quaternized monomer such as 3-methyl-1-vinylimidazolium methyl sulfate and 0-98.99% of a water-soluble monomer such as N-vinylpyrrolidone. See Translation at pp. 4-6. N,N'-divinylethylenurea can be used as a crosslinking agent. See Translation at p. 5; p. 7; Example 3. The polymers of Dieing et al. are obtained by the same method of free-radical initiated solution polymerization as recited in the instant claims. See Translation at p. 5. Dieing et al. teaches that along with the polymers and solvents, the cosmetic hair preparations can also contain conventional cosmetic ingredients. See Translation at p. 6. Dieing et al. do not explicitly teach the UV filters of the instant claims. However, Tanner et al. teach that it is conventional to employ sunscreen agents in a variety of personal care products. See col. 1, lines 51-53. Tanner et al. teach using a surface treated micronized zinc oxide in combination with a dibenzoylmethane sunscreen compound in cosmetic compositions for providing excellent photostability, chemical stability and physical stability of the cosmetic compositions as well as good UVA protection. See col. 2, lines 18-22; col. 7, lines 17-34; col. 8, lines 49-54. Further, George et al. teach that it is desirable to incorporate sunscreen agents or sunfilters in a variety of cosmetic products, including hair care products such as shampoos and mousses for at least partially protecting human skin and hair from UV radiation. See col. 1, lines 37-45. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the hair care compositions of Dieing et al. such that to employ UV filters of Tanner et al. One having ordinary skill in the art would have been motivated to do this to obtain compositions having

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improved photostability, chemical stability and physical stability as suggested by Tanner et al.

One having ordinary skill in the art would have been further motivated to do this to obtain compositions that would protect hair from UV radiation as suggested by both Tanner et al. and George et al.

Therefore, the invention as a whole would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-4 and 9-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. No claim is allowed at this time.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marina Lamm whose telephone number is (703) 306-4541.

The examiner can normally be reached on Monday to Friday from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page, can be reached at (703) 308-2927.

The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

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THURMAN K. PAGE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600